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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL DOTSON, individually and)	Case No.
on behalf of all others similarly)	
situated,)	<u>CLASS ACTION</u>
)	
Plaintiff,)	COMPLAINT FOR VIOLATIONS
)	OF:
vs.)	
)	1. NEGLIGENT VIOLATIONS OF
)	THE TELEPHONE CONSUMER
)	PROTECTION ACT [47 U.S.C.
ROUND SKY, INC.; dba CASH)	§227 ET SEQ.]
ADVANCE USA, LTD., and DOES 1)	2. WILLFUL VIOLATIONS OF THE
through 10, inclusive, and each of)	TELEPHONE CONSUMER
them,)	PROTECTION ACT [47 U.S.C.
)	§227 ET SEQ.]
)	
Defendants.)	<u>DEMAND FOR JURY TRIAL</u>
)	

Plaintiff, MICHAEL DOTSON ("Plaintiff"), individually and on behalf of all others similarly situated, allege the following upon information and belief based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action individually and others similarly situated seeking damages and any other available legal or equitable remedies resulting from

1 the illegal actions of ROUND SKY, INC.; dba CASH ADVANCE USA, LTD.
2 (“Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiff on
3 Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection
4 Act, 47 U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’ privacy.

5 6 **JURISDICTION & VENUE**

7 2. This court has federal question jurisdiction over Plaintiff’s TCPA
8 claims because this cause of action arises out of violations of federal law. 47 U.S.C.
9 §227(b); *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740 (2012).

10 3. Venue is proper in the United States District Court for the Central
11 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
12 because Defendant does business within the state of California and Plaintiff resides
13 within this District.

14 **PARTIES**

15 4. Plaintiff, MICHAEL DOTSON (“Plaintiff”), is a natural person
16 residing in Los Angeles, California and is a “person” as defined by 47 U.S.C. § 153
17 (39).

18 5. Defendant, ROUND SKY, INC.; dba CASH ADVANCE USA, LTD.
19 (“Defendant”), is a marketing corporation and is a “person” as defined by 47 U.S.C.
20 § 153 (39).

21 6. The above named Defendant, and its subsidiaries and agents, are
22 collectively referred to as “Defendants.” The true names and capacities of the
23 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
24 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
25 names. Each of the Defendants designated herein as a DOE is legally responsible
26 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
27 Complaint to reflect the true names and capacities of the DOE Defendants when
28 such identities become known.

1 7. Plaintiff are informed and believe that at all relevant times, each and
2 every Defendant was acting as an agent and/or employee of each of the other
3 Defendants and was acting within the course and scope of said agency and/or
4 employment with the full knowledge and consent of each of the other Defendants.
5 Plaintiff are informed and believe that each of the acts and/or omissions complained
6 of herein was made known to, and ratified by, each of the other Defendants.

7 **FACTUAL ALLEGATIONS**

8 8. Beginning in or around April 2017, Defendant contacted Plaintiff on
9 his cellular telephone, number ending in -9844, in an effort to sell or solicit its
10 services.

11 9. Defendant used an “automatic telephone dialing system” as defined
12 by 47 U.S.C. § 227(a)(1) to place its call to Plaintiff seeking to solicit its services.
13 At one or more instance during these calls, Defendant utilized an “artificial or
14 prerecorded voice” as prohibited by 47 U.S.C. § 227(b)(1)(A).

15 10. Defendant called Plaintiff at least 15 times from April 21, 2017 until
16 November 8, 2017.

17 11. Defendant contacted or attempted to contact Plaintiff from telephone
18 number (312) 392-4195.

19 12. Defendant’s calls constituted calls that were not for emergency
20 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

21 13. During all relevant times, Defendant did not possess Plaintiff’s “prior
22 express consent” to receive calls using an automatic telephone dialing system or an
23 artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §
24 227(b)(1)(A).

25 14. Defendant’s calls were placed to telephone number assigned to a
26 cellular telephone service for which Plaintiff incurs a charge for incoming calls
27 pursuant to 47 U.S.C. § 227(b)(1).

28 15. Plaintiff is informed and believes and therein alleges that Plaintiff is

1 not a customer of Defendant's services and has never provided any personal
2 information, including his cellular telephone numbers, to Defendant for any
3 purpose whatsoever. In addition, Plaintiff told Defendant at least once to stop
4 contacting him. Accordingly, Defendant never received Plaintiff's "prior express
5 consent" to receive calls using an automatic telephone dialing system or an artificial
6 or prerecorded voice on their cellular telephone pursuant to 47 U.S.C. §
7 227(b)(1)(A).

8 16. Such calls constitute solicitation calls pursuant to 47 C.F.R. §
9 64.1200(c)(2) as they were attempts to promote or sell Defendant's services.

10 17. Plaintiff received numerous solicitation calls from Defendant within a
11 12-month period.

12 18. Defendant's calls were placed to telephone number assigned to a
13 cellular telephone service for which Plaintiff incurs a charge for incoming calls
14 pursuant to 47 U.S.C. §227(b)(1).

15 19. Plaintiff is not a customer of Defendant's services and has never
16 provided any personal information, including his cellular telephone number, to
17 Defendant for any purpose whatsoever. Accordingly, Defendant never received
18 Plaintiff's "prior express consent" to receive calls using an automatic telephone
19 dialing system or an artificial or prerecorded voice on his cellular telephone
20 pursuant to 47 U.S.C. §227(b)(1)(A).

21 **CLASS ALLEGATIONS**

22 20. Plaintiff brings this action on behalf of himself and all others similarly
23 situated, as a member of the proposed class (hereafter "The Class") defined as
24 follows:
25

26 All persons within the United States who received any
27 telephone calls from Defendant to said person's cellular
28 telephone made through the use of any automatic
telephone dialing system or an artificial or prerecorded

1 voice and such person had not previously consented to
2 receiving such calls within the four years prior to the
3 filing of this Complaint

4 21. Plaintiff represents, and is a member of, The Class, consisting of All
5 persons within the United States who received any telephone calls from Defendant
6 to said person's cellular telephone made through the use of any automatic telephone
7 dialing system or an artificial or prerecorded voice and such person had not
8 previously not provided their cellular telephone number to Defendant within the
9 four years prior to the filing of this Complaint.

10 22. Defendant, its employees and agents are excluded from The Class.
11 Plaintiff does not know the number of members in The Class, but believes the Class
12 members number in the thousands, if not more. Thus, this matter should be
13 certified as a Class Action to assist in the expeditious litigation of the matter.

14 23. The Class is so numerous that the individual joinder of all of its
15 members is impractical. While the exact number and identities of The Class
16 members are unknown to Plaintiff at this time and can only be ascertained through
17 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
18 The Class includes thousands of members. Plaintiff alleges that The Class
19 members may be ascertained by the records maintained by Defendant.

20 24. Plaintiff and members of The Class were harmed by the acts of
21 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
22 and Class members via their cellular telephones thereby causing Plaintiff and Class
23 members to incur certain charges or reduced telephone time for which Plaintiff and
24 Class members had previously paid by having to retrieve or administer messages
25 left by Defendant during those illegal calls, and invading the privacy of said
26 Plaintiff and Class members.

27 25. Common questions of fact and law exist as to all members of The
28 Class which predominate over any questions affecting only individual members of

1 The Class. These common legal and factual questions, which do not vary between
2 Class members, and which may be determined without reference to the individual
3 circumstances of any Class members, include, but are not limited to, the following:

- 4
- 5 a. Whether, within the four years prior to the filing of this Complaint,
6 Defendant made any call (other than a call made for emergency
7 purposes or made with the prior express consent of the called party)
8 to a Class member using any automatic telephone dialing system or
9 any artificial or prerecorded voice to any telephone number assigned
10 to a cellular telephone service;
 - 11 b. Whether Plaintiff and the Class members were damages thereby, and
12 the extent of damages for such violation; and
 - 13 c. Whether Defendant should be enjoined from engaging in such conduct
14 in the future.

15 26. As a person that received numerous calls from Defendant using an
16 automatic telephone dialing system or an artificial or prerecorded voice, without
17 Plaintiff's prior express consent, Plaintiff is asserting claims that are typical of The
18 Class.

19 27. Plaintiff will fairly and adequately protect the interests of the members
20 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
21 class actions.

22 28. A class action is superior to other available methods of fair and
23 efficient adjudication of this controversy, since individual litigation of the claims
24 of all Class members is impracticable. Even if every Class member could afford
25 individual litigation, the court system could not. It would be unduly burdensome
26 to the courts in which individual litigation of numerous issues would proceed.
27 Individualized litigation would also present the potential for varying, inconsistent,
28 or contradictory judgments and would magnify the delay and expense to all parties
and to the court system resulting from multiple trials of the same complex factual
issues. By contrast, the conduct of this action as a class action presents fewer

1 management difficulties, conserves the resources of the parties and of the court
2 system, and protects the rights of each Class member.

3 29. The prosecution of separate actions by individual Class members
4 would create a risk of adjudications with respect to them that would, as a practical
5 matter, be dispositive of the interests of the other Class members not parties to such
6 adjudications or that would substantially impair or impede the ability of such non-
7 party Class members to protect their interests.

8 30. Defendant has acted or refused to act in respects generally applicable
9 to The Class, thereby making appropriate final and injunctive relief with regard to
10 the members of the California Class as a whole.

11
12 **FIRST CAUSE OF ACTION**

13 **Negligent Violations of the Telephone Consumer Protection Act**
14 **47 U.S.C. §227 et seq.**

15 31. Plaintiff repeats and incorporates by reference into this cause of
16 action the allegations set forth above at Paragraphs 1-25.

17 32. The foregoing acts and omissions of Defendant constitute numerous
18 and multiple negligent violations of the TCPA, including but not limited to each
19 and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

20 33. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et
21 seq., Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
22 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

23 34. Plaintiff and the Class members are also entitled to and seek
24 injunctive relief prohibiting such conduct in the future.

25 **SECOND CAUSE OF ACTION**

26 **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**
27 **47 U.S.C. §227 et seq.**

28 35. Plaintiff repeats and incorporates by reference into this cause of
action the allegations set forth above at Paragraphs 1-29.

36. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

37. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

38. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act 47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*; and
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act 47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to *47 U.S.C. §227(b)(3)(B)* and *47 U.S.C. §227(b)(3)(C)*; and
- Any and all other relief that the Court deems just and proper.

1
2 Respectfully Submitted this 26th Day of September, 2018.

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4 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

5 By: /s Todd M. Friedman
6 Todd M. Friedman
7 Law Offices of Todd M. Friedman
8 Attorney for Plaintiff
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